

Congress of the United States
Washington, DC 20515

March 23, 2015

The Honorable Jeh Johnson
Secretary
U.S. Department of Homeland Security
Washington, D.C. 20528

Dear Secretary Johnson:

We write to obtain additional information regarding the dangerous criminal aliens arrested during Operation Cross Check VI.

On March 9, 2015, U.S. Immigration and Customs Enforcement (ICE) announced that, as a result of Operation Cross Check VI, ICE Enforcement and Removal Operations (ERO) arrested 2,059 dangerous criminal aliens, some of whom had convictions for manslaughter, possession of child pornography, robbery, kidnapping, rape, and driving under the influence. ICE ERO also announced the arrest of 58 known gang members or affiliates, as well as a number of aliens who ICE or U.S. Customs and Border Protection previously removed from the United States.

According to information provided by U.S. Citizenship and Immigration Services (USCIS), at least 23 of the individuals arrested had previously been granted deferred action under the President's Deferred Action for Childhood Arrivals (DACA) program. This raises serious concerns about the manner in which USCIS checks the backgrounds of DACA applicants and consults with ICE regarding DACA applicants.

Criminal aliens encountered via Operation Cross Check pose a significant danger to the safety and security of our country, and we commend the efforts of the ERO officers involved in this operation who placed themselves at great risk in pursuing them. Arresting, detaining, and ensuring the removal of these dangerous criminal aliens – individuals ICE has deemed to be of the highest priority for removal – is of great importance to Congress and the American people. Now your department must ensure their removal from the United States so that they are not again released back into our communities to commit more crimes.

Costly operations to apprehend at-large criminal aliens would not be necessary if state and local jurisdictions would simply cooperate with ICE, whether by honoring ICE detainers, advising ICE before releasing criminal aliens, or allowing ICE access to detention facilities. The need for these operations also would be considerably mitigated if this administration had not ended the successful Secure Communities program, and curtailed the ability of ERO to issue ICE detainers, which is at the core of ICE's mission to pick up and process removable aliens encountered by law enforcement.

Undermining ICE detainers endangers officers, agents, and the public. It is far more dangerous for law enforcement to pursue aliens at large, in far less safe and predictable settings, than if they were able to obtain custody of criminal aliens from state or local facilities. Public

safety is also greatly compromised when these aliens are released back into the community, where they often commit additional and more heinous crimes.

We are committed to protecting the public from reckless “sanctuary” jurisdiction policies. We are also committed to holding the administration accountable for its failure to defend its own detainer authorities, and intend to use the results of Operation Cross Check VI to demonstrate the importance of preventing the release of dangerous criminal aliens.

Accordingly, until your Department removes all aliens arrested during Operation Cross Check VI, please provide the following information on a monthly basis:

1. The number of individuals arrested during Operation Cross Check VI – broken down by immigration status at the time of arrest – currently in ICE custody, including:
 - a. The number of detained individuals ICE can remove outside of removal proceedings, including, but not limited to, an administrative removal pursuant to section 238(b) of the Immigration and Nationality Act (INA), as amended, or a reinstated order of removal pursuant section 241(a)(5) of the INA.
 - b. The number of detained individuals ICE can remove through removal proceedings pursuant to section 240 of the INA.
 - c. The average amount of time spent by a detained alien in ICE custody since processed by Operation Cross Check VI.
2. The number of individuals arrested during Operation Cross Check VI – broken down by immigration status at the time of arrest – currently released from ICE custody, including the following:
 - a. The agency or entity responsible for the decision to release the alien (*i.e.*, ICE, immigration judge), including any recommendation as to the custody or release of the alien made by the ICE Office of the Principal Legal Advisor (OPLA) to ERO, or by an OPLA attorney to an immigration judge in a bond hearing.
 - b. The number of released individuals ICE can remove outside of removal proceedings, including, but not limited to, an administrative removal pursuant to section 238(b) of the INA, or a reinstated order of removal pursuant section 241(a)(5) of the INA.
 - c. The number of released individuals ICE can remove through removal proceedings pursuant to section 240 of the INA.
3. The number of individuals arrested during Operation Cross Check VI – broken down by immigration status at the time of arrest – who had prior encounters with ICE. Please provide a detailed description of the nature of the previous encounters, and any actions taken by ICE after the encounters with respect to that individual.
4. The number of individuals arrested during Operation Cross Check VI – broken down by immigration status at the time of arrest – who subsequently obtain relief from removal in immigration court proceedings. Please provide a detailed description of the case, whether ICE has appealed the immigration judge’s decision to the Board of Immigration Appeals, or

where appropriate, whether ICE seeks to have the Department of Justice file a petition for review with the respective United States Court of Appeals.

5. The number of individuals arrested during Operation Cross Check VI – broken down by immigration status at the time of arrest – whose removal proceedings were subsequently administratively closed as an exercise of “prosecutorial discretion” by ICE OPLA, or whose Notice to Appear ICE OPLA elected not to file as an exercise of “prosecutorial discretion.” Please provide a detailed explanation in an independent memorandum – written by the OPLA attorney who administratively closed the case in immigration court – as to why such a decision was made, to include the personal recommendation of that OPLA attorney, any input or direction on the matter from supervisory attorneys at OPLA, and any involvement with the alien’s attorney or any outside advocacy groups.
6. The number of individuals arrested during Operation Cross Check VI – broken down by immigration status at the time of arrest – who subsequently have an initial DACA application or DACA renewal application approved by U.S. Citizenship and Immigration Services (USCIS).
 - a. Please provide all information regarding the alien’s initial, and if applicable renewal, DACA application and criminal history.
 - b. If USCIS begins to accept and adjudicate applications for Deferred Action for Parents of Americans and Lawful Permanent Residents (DAPA), please provide identical information pertaining to those individuals arrested during Operation Cross Check VI who subsequently have a DAPA application approved.
7. The number of individuals arrested during Operation Cross Check VI – broken down by immigration status at the time of arrest – to whom ICE subsequently granted a stay of deportation. Please provide a detailed explanation in an independent memorandum – written by the Field Office Director or other deciding official who granted the stay – as to why such a decision was made, to include his or her personal recommendation, any input or direction on the matter from supervisory personnel in ICE, and any involvement with the alien’s attorney or any outside advocacy groups.
8. The number of individuals arrested during Operation Cross Check VI – broken down by immigration status at the time of arrest – who the Department of Justice or a U.S. Attorney’s Office subsequently have elected to prosecute criminally for illegal reentry.
9. The number of individuals arrested during Operation Cross Check VI – broken down by immigration status at the time of arrest – who ICE has subsequently removed from the United States.

When providing the information requested above for each alien, please ensure that the data includes a subcategory for those individuals who had been granted DACA, as well as for any individuals arrested during Operation Cross Check VI who at the time of arrest had a pending DACA application.

Additionally, in separate reports, please provide the same information requested above regarding the results of Operations Cross Check IV and V.

Please provide this information to our offices by April 6, 2015. Please provide updates thereafter on a monthly basis. Thank you for your attention to this matter, and for your Department's efforts to remove these dangerous aliens from the United States.

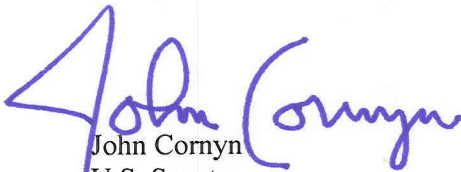
Sincerely,



Jeff Sessions
Chairman, Senate Subcommittee on
Immigration and the National Interest



Bob Goodlatte
Chairman
House Committee on the Judiciary



John Cornyn
U.S. Senator



Trey Gowdy
Chairman, House Subcommittee on
Immigration and Border Security